

**2001-2003 BIENNIAL REPORT OF THE
WISCONSIN TAX APPEALS COMMISSION**

As required by Wis. Stat. § 15.04(1)(d), this is the report on the operation of the Wisconsin Tax Appeals Commission for the 2001-2003 biennium.

ORGANIZATION

The Tax Appeals Commission is an independent state agency. Its organization, powers, duties, and functions are governed by Chapter 73 of the Wisconsin Statutes. Pursuant to Wis. Stat. § 15.03, budgeting, program coordination, and related management functions are performed by the Commission, under the general direction and supervision of the Secretary of the Department of Administration.

The Commission consists of three full-time commissioners who are nominated by the Governor, with the advice and consent of the State Senate, for staggered six-year terms. Every two years, one of the commissioners is designated Chairperson by the Governor. The Commissioners and the expiration of their terms of office during the 2001-2003 biennium are as follows:

<u>Commissioner</u>	<u>Expiration of Term</u>
Mark E. Musolf (Chairperson) ¹	March 1, 2003
Don M. Millis (Chairperson) ²	March 1, 2005
Thomas M. Boykoff	March 1, 2007
Richard F. Raemisch ³	March 1, 2003

At the start of the 2001-2003 biennium, the support staff of the Commission consisted of the following four employees in the classified service:

<u>Employee</u>	<u>Classification</u>
Joseph P. Ziesel	Office Management Supervisor
Evie J. Schwartzlow	Word Processing Operator 2
Susan F. Hagen	Program Assistant 3
Darlene R. Skolaski	Secretary

¹ Retired from the Commission on July 17, 2001.

² Appointed Chairperson on March 6, 2002.

³ Resigned from the Commission on January 31, 2003.

After the retirement of the Office Management Supervisor, the duties and responsibilities of the classified service support staff were restructured as follows:

<u>Employee</u>	<u>Classification</u>	<u>Working Title</u>
Evie J. Schwartzlow	Program Assistant 3	Legal Assistant
Susan F. Hagen	Office Management Specialist	Clerk/Computer Operations Manager
Darlene R. Skolaski	Program Assistant 3	Receptionist/ Scheduling Assistant

Following the resignation of the Office Management Specialist and elimination of this position, the duties and responsibilities of the classified services support staff were further restructured as follows:

<u>Employee</u>	<u>Classification</u>	<u>Working Title</u>
Evie J. Schwartzlow	Program Assistant 3	Legal Assistant
Darlene R. Skolaski	Program Assistant 3	Clerk/Receptionist/ Scheduling Assistant

FUNCTIONS

The Tax Appeals Commission (preceded by the Board of Tax Appeals), created in 1939, is a quasi-judicial state agency whose primary function is to hear and determine disputes between taxpayers and the Wisconsin Departments of Revenue and Transportation. As such, it operates much as the United States Tax Court does on the federal level.

Pursuant to the provisions of Wis. Stat. § 73.01(4), and subject to judicial review, the Commission is the final authority for the hearing and determination of all questions of fact and law arising in the following areas of state taxation: individual income, corporation franchise/income, fiduciary, withholding, gift, sales and use, recycling surcharge, county sales tax, car line, cigarette use, controlled substances, metalliferous minerals occupation, motor fuel and alternative fuel, International Registration Plan fees, intoxicating liquor, cigarettes and tobacco products, homestead credit, farmland preservation credit, assessments of manufacturing property, pollution abatement, taxation district appeals regarding the relative value of taxable property in taxation districts of a county, real estate transfer fees, telephone license fees, and electric cooperative association license fees.

Whenever practical, the Commission schedules hearings at locations convenient to taxpayers throughout Wisconsin. Though the majority of hearings are in Madison

and Milwaukee, the Commission also utilizes locations in Appleton, Ashland, Black River Falls, Eau Claire, Fond du Lac, Green Bay, Kenosha, La Crosse, Oshkosh, Racine, Superior, Whitehall, Waukesha, and Wausau. Budgetary constraints in the next biennium may necessitate holding more hearings in Madison and having taxpayers travel further distances to meet the personal appearance requirements of the statutes.

The Commission does, on occasion, conduct hearings by telephone, if a taxpayer lives out-of-state or is handicapped and unable to attend a hearing. This procedure saves time and expense for taxpayers and the State. Hearings are typically conducted by one commissioner. Other than Small Claims appeals, decisions are made by a majority of the Commission, after discussion and review of the evidence and briefs submitted by the parties.

CASE LOAD

The following is a comparison of the number of appeals filed and disposed of in the last five fiscal years:

<u>Fiscal Year</u>	<u>Filed</u>	<u>Disposed</u>
2002-03	505	304
2001-02	274	198
2000-01	256	334
1999-00	219	588
1998-99	283	615

The following table shows the type of appeals filed during the 2001-2003 biennium:

<u>Type of Appeal</u>	<u>FY '01-02 Number</u>	<u>FY '02-03 Number</u>
Income and Franchise Tax	152	358
Sales and Use Tax	48	45
Manufacturing Assessments	23	47
Homestead Credit	18	33
Real Estate Transfer Fee	14	4
Vehicle	7	7
Withholding Tax	6	4
Controlled Substances	2	0
Farmland Preservation Credit	1	1
Recycling Surcharge	1	1
Utility	0	1
Other	2	4
Total	274	505

MANAGEMENT OF APPEALS

During the 2001-2003 biennium, the number of appeals pending before the Commission increased from 1,107 to 1,384. A significant factor in this increase is the continued filing of appeals involving federal retirees. The following table shows, by month, the number of appeals filed, the number of appeals disposed of, and the balance of appeals on hand:

<u>Month</u>	<u>FY '01-02</u>			<u>FY '02-03</u>		
	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>
June ('01)			1,107			
July	8	11	1,104	87	31	1239
August	22	23	1,103	49	8	1280
September	15	18	1,100	31	21	1290
October	28	16	1,112	49	28	1311
November	32	24	1,120	57	29	1339
December	22	10	1,132	41	23	1357
January	25	18	1,139	31	29	1359
February	11	10	1,140	38	24	1373
March	17	16	1,141	24	31	1366
April	10	19	1,132	33	17	1382
May	63	14	1,181	39	35	1386
June	21	19	1,183	26	28	1384

GOALS AND OBJECTIVES

Appeals filed with the Commission continue to range from relatively simple, straightforward cases to cases involving complex legal issues, which often present questions of first impression and voluminous factual records. The Commission has continued to be flexible in presiding over appeals on a case-by-case basis, utilizing different procedures for the various types of appeals it handles.

Past experience indicates that the Commission's caseload is increasingly dominated by the more complicated appeals, which require an expenditure of a greater amount of time and resources to resolve. In those appeals, the Commission has implemented procedures such as pretrial mediation conferences to narrow the focus at trial and to reduce the number of disputes over tangential factual issues. In order to advance consideration of the substantive issues, it has also made an effort to promptly resolve any non-dispositive disputes, such as discovery or evidentiary motions.

The Commission believes that taxpayers in the less complicated, more straightforward appeals are entitled to prompt resolution of their appeals. To that end, the procedures in certain small claims cases have been changed in order to expedite consideration of those appeals.

The Commission continues to devote a considerable amount of time to the federal retiree appeals. It is expected that in the next biennium, a concerted effort by the Commission will result in the disposition of several hundred of the more than 1,000 pending cases relating to the various issues within those appeals.

In response to the budget reductions mandated by 2001 Wisconsin Act 16, the Commission's Office Management Supervisor position was eliminated. There was a reallocation of duties among the three remaining classified service positions and the Commission Chairperson. The duties were again redistributed following the resignation of the Office Management Specialist and the elimination of the position in 2003 Wisconsin Act 33. The Commission has automated certain functions such as calendaring and scheduling, and the preparation of hearing transcripts has been contracted out.

The Commission has only two remaining support staff, and budgetary concerns prohibit adding staff. Therefore, the issues of flexible work hours or alternative work patterns have not been addressed.

Prior to the end of the 2001-2003 biennium, the Commission relocated its offices and took over the remaining lease of another state agency. The move resulted in a reduction in per square foot rental costs and technology costs, which will result in substantial savings in the next biennium.

Despite the challenges presented by budget and staff reductions, the Commission remains committed to providing Wisconsin taxpayers with a fair, impartial, and thorough consideration of their tax appeals.

WISCONSIN TAX APPEALS COMMISSION

Don M. Millis, Commission Chairperson